

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
VALDOSTA DIVISION

TIMMY HARRIS,

Plaintiff

VS.

Lieutenant CREWS, Investigator ROBERT  
RENFROE, and Sgt. SWAIN,

Defendants

NO. 7:06-cv-114 (HL)

**ORDER**

Plaintiff **TIMMY HARRIS**, a pretrial detainee at the Lowndes County Jail in Valdosta, Georgia, has filed a *pro se* civil rights complaint under 42 U.S.C. § 1983, and he seeks leave to proceed *in forma pauperis* (Tab # 1).

Under the “three strikes” provision of the Prison Litigation Reform Act (“PLRA”), a prisoner is generally precluded from proceeding *in forma pauperis* if at least three prior-prison generated lawsuits or appeals by the prisoner were dismissed as frivolous, malicious or failing to state a claim upon which relief may be granted (dismissal without prejudice for failure to exhaust administrative remedies and dismissal for abuse of judicial process are also properly counted as strikes). 28 U.S.C. §1915(g); Fed.R.Civ.P. 12(b)(6); *see Rivera v. Allin*, 144 F.3d 719 (11th Cir. 1998). Section 1915(g) provides an exception to the three strike rule, under which an inmate may proceed *in forma pauperis* if he alleges he is in “imminent danger of serious injury.”

The Eleventh Circuit has concluded that section 1915(g) does not violate an inmate’s right to access to the courts, the doctrine of separation of powers, an inmate’s right to due process of law,

or an inmate's right to equal protection. Accordingly, the Eleventh Circuit upheld the constitutionality of section 1915(g). *Rivera*, 144 F.3d at 721-27.

A review of court records on the U.S. District Web PACER Docket Report reveals that plaintiff has exceeded the "strikes" allowed by the PLRA to a prisoner attempting to proceed *in forma pauperis* in a federal civil lawsuit. *See Harris v. Alpha Lumber and Supply Co.*, 2:01-CV-197-WHA (M.D. Ala. 2001); *Harris v. Shultz*, 2:01-CV-409-WHA (M.D. Ala. 2001); *Harris v. Garner*, 1:06-CV-11-MEF (M.D. Ala. 2006); and *Harris v. Adams*, 1:06-CV-329-WHA (M.D. Ala. 2006). As such, plaintiff cannot proceed *in forma pauperis* in the instant case unless he can show that he qualifies for the "imminent danger of serious physical injury" exception of section 1915(g). Plaintiff attempts to bring himself within the "imminent danger" exception by alleging that he "fears for his life on a daily basis" at the Lowndes County Jail because of "indirect threats." These allegations do not amount to "imminent danger of serious physical harm." In fact, allegations of threats and/or verbal abuse do not even set forth viable claims under section 1983. *See Stacey v. Ford*, 554 F. Supp. (N.D. Ga. 1982); *DeWalt v. Carter*, 224 F.3d 607 (7<sup>th</sup> Cir. 1999).

Because plaintiff has more than three prior dismissals and is not under imminent danger of serious injury, his request to proceed *in forma pauperis* is **DENIED** and the instant action is **DISMISSED** without prejudice. If plaintiff wishes to bring a new civil rights action, he may do so by submitting new complaint forms and the entire \$350.00 filing fee at the time of filing the complaint. As the Eleventh Circuit stated in *Dupree v. Palmer*, 284 F.3d 1234, 1236 (11<sup>th</sup> Cir. 2002), a prisoner cannot simply pay the filing fee after being denied *in forma pauperis* status; he must pay the filing fee at the time he initiates the suit.

**SO ORDERED**, this 16<sup>th</sup> day of November, 2006.

s/ **Hugh Lawson**  
HUGH LAWSON  
UNITED STATES DISTRICT JUDGE

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